HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO.3824 OF 2004

PETITIONER Nathmal Murarka, aged about 70 years, son of Late Shri Biharilal Murarka, Murarka Petrol Pump, Main Road, Korba (Chhattisgarh)

Vs.

RESPONDENTS

1. State of Chhattisgarh, Through : The Tahsildar, Tah. Korba, Distt. Korba (C.G.)
2. Sheetal Singh, son of Kale Singh, aged about 56 years, Seetamani, Korba, Tah and Distt. Korba (Chhattisgarh)

Present : Mr. Sanjay Ku. Agrawal , learned counsel for the petitioner.

Mr. Sanjay S. Agrawal, learned Govt. Advocate for the State.

ORAL ORDER

(Passed on 4th January, 2006)

The petitioner herein despite service of notice on him did not appear before the Commissioner for Workmen's Compensation in a proceeding initiated at the instance of the second respondent herein under Section 10 of the Workmen's Compensation Act, 1923 (*for short 'the Act'*). As a result, the Commissioner for Workmen's Compensation placed the petitioner ex parte and passed the order. After passing the order, the petitioner moved an application before the Commissioner for Workmen's Compensation under Order 9 Rule 13 C.P.C on the ground that he had no notice of the proceedings. The Commissioner having found no substance in that allegation and satisfying himself that the petitioner had notice of the proceedings dismissed the application filed under Order 9 Rule 13 C.P.C. Being aggrieved by the said order as well as the main order made under Section 10 of the Act, the petitioner has preferred this writ petition.

(2) Heard learned counsel for the parties. If the petitioner, to his peril, notwithstanding service of notice on him of the proceedings initiated

under Section 10 of the Act did not choose to put in appearance and defend himself, he cannot turn round and contend that he was prejudiced by the order made by the Commissioner for Workmen's Compensation under Section 10 of the Act. There is absolutely no good cause shown by the petitioner not to appear before the Commissioner before he made the order under Section 10 of the Act. The writ petition is, therefore, dismissed, however, with no costs.

Sd/-
Chief Justice

Brajesh